

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1312 OF 2025

Mukadam @ Shivkumar
Prabhudayal Prajapati ... Applicant
vs.
The State of Maharashtra & Anr. ... Respondents

Mr. Manish Dubey for the Applicant.
Smt. Madhavi H. Mhatre, APP for the Respondent-State.
Mr. Abhishek Karnik, Advocate appointed for Respondent No.2.
Mr. Ramdas Manik Kolte, PSI, Bhoiwada police station present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 29th JANUARY, 2026

P. C. :

- 1) Present Application arises out of an Order dated 05/11/2024, in Special Case No.1193/2023, passed below (Exh.3) by the Court of the learned Additional Sessions Judge, Bhiwandi, rejecting the Application for bail in the said case
- 2) Heard Mr.Dubey, learned Counsel for the Applicant, Smt.Mhatre, learned APP for the Respondent-State and Mr. Karnik, learned Advocate appointed for Respondent No.2.
- 3) Prosecution case is that on 03/11/2022, at about 2.30 p.m., the Applicant allegedly called the victim girl, aged about 4 years, at his house

and inserted his finger into her private part. As a result the victim suffered pain and complained about the incident to her mother. On the same day, the mother of the victim filed an FIR. Whereupon this crime came to be registered with Bhoiwada Police station, Bhiwandi for offences punishable under Sections 376AB of the Indian Penal Code (for short 'IPC') and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO') against the Applicant. The police arrested the Applicant on 4/11/2022. Upon completion of the investigation, the charge-sheet came to be filed.

4) The Applicant, therefore, preferred the Application for bail under Section 439 of the Code of Criminal Procedure. The learned Judge of the trial Court rejected that Application holding that there is a *prima facie* case of the offence alleged against the Applicant. The medical report indicates presence of inflammation on the private part of the victim.

5) Mr Dubey, the learned counsel for the Applicant submitted that the Applicant is in jail for more than three years. Since filing of charge-sheet, the case has not progressed in an expedite manner. The Applicant was doing labour to earn the livelihood for his family. He and his family are suffering from various hardship due to his incarceration. Therefore, the Applicant may be enlarged on bail.

6) Smt. Mhatre, the learned APP has opposed the Application and

submitted that there is sufficient evidence against the Applicant that he had sexually assaulted the minor girl who was aged 4 year. As such the offence is serious. Therefore, the bail be rejected. Mr. Karnik, the learned Appointed counsel has supported the submission made by the learned APP.

7) The FIR states that at the relevant time and place, the Applicant had inserted his finger in the private part of the victim. Therefore, the victim had suffered pain. However, the medical papers placed on record indicate that there was no injury/inflammation at the private part. This fact is conceded by the prosecution. In such circumstances, whether the Applicant has committed the alleged offence or not, is a question of the trial.

8) It is not in dispute that since the date of his arrest, the Applicant is in jail. The hearing of the prosecution witnesses is yet to commence. The Applicant was doing labour to earn the livelihood of his family. His family must be facing various difficulties due to his incarceration. The trial is likely to take some time. The Applicant is not likely to abscond or tamper with the prosecution evidence.

9) In view thereof, the Applicant may be released on bail. Thus, I am inclined to allow this Application and pass following Order :-

ORDER

(a) Applicant - Mukadam @ Shivkumar Prabhudayal Prajapati shall be released on bail in connection with

C.R.No.I-222 of 2022, registered at Bhoiwada Police Station, Bhiwandi, District Thane on his furnishing PR bond in the sum of Rs.50,000/- with one/two sureties in the like amount.

(b) The Applicant shall regularly attend before the trial Court.

(c) Applicant shall attend at Bhoiwada Police Station, Bhiwandi, on 1st day of each calendar month between 10:00 a.m. to 02:00 pm, till conclusion of the trial.

(d) Applicant shall not reside within the jurisdiction of Bhoiwada Police Station, Bhiwandi, District Thane till the trial in the present case is over.

(e) Before his release from jail, the Applicant shall provide his contact number and the detailed address where he would be staying during the trial period.

(f) The Applicant shall not change his residential address without prior permission of the trial Court concerned.

(g) The Applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence the prosecution witnesses to dissuade them from tendering their evidence against him.

(h) If the Applicant disobeyed any of the above conditions, the bail granted herein shall stand cancelled without further reference to this Court or the trial Court.

10) At this stage, the learned Counsel for the Applicant Mr. Dubey prayed to grant four weeks time to furnish surety and till then, to release the Applicant on his executing a P.R. Bond in the sum of Rs.50,000/- and on depositing a sum of Rs.20,000/- in lieu of executing the surety bond.

Considering the facts of the case, said request is accepted. Hence, the Applicant be released on bail for a period of four weeks on his executing a P.R. Bond in the sum of Rs.50,000/- and depositing a sum of Rs.20,000/- in lieu of furnishing the surety bond.

At the end of said period of four weeks, the Applicant shall furnish the surety. On furnishing such surety, the amount totaling to Rs.20,000/- deposited by the Applicant shall be returned.

- 11) With above observations, the Bail Application is disposed of.
- 12) It is made clear that the aforesaid observations are *prima facie* in nature. The said case shall be decided by the trial Court on its own merit.

(SHYAM C. CHANDAK, J.)